

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SARAH H. BLACK,
DANIEL L. BLACK, and JACOB L. BLACK,

Plaintiff,

v.

ANTHONY DAIN, CHERIE WRIGLEY, IRA
SALZMAN, MELISSA COHENSON, BRIAN A.
RAPHAN, P.C., PAMELA KERR, ESAUN G.
PINTO, and CPI INVESTIGATIONS

Defendants.
-----X

Civil Action No.: 1:16-cv-01238
(CBA) (ST)

**DECLARATION OF HARRIS B.
KATZ IN SUPPORT OF
DEFENDANT IRA SALZMAN'S
MOTION TO DISMISS THE
AMENDED COMPLAINT**

HARRIS B. KATZ, an attorney duly admitted to practice in the Courts of New York State and the United States District Court for the Eastern District of New York, declares the following under penalty of perjury:

1. I am a partner with the law firm of Winget, Spadafora & Schwartzberg, LLP, counsel for Defendant, Ira Salzman (hereinafter referred to as "Defendant") in this action. Based on my review of our office's file in this matter, I am fully familiar with the facts set forth herein.

2. I submit this Declaration in support of the Defendant's Motion to Dismiss the Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6), for failure to state a claim upon which relief may be granted, and upon other grounds.

3. A true and correct copy of the Amended Complaint filed by Plaintiffs, Sarah H. Black, Daniel L. Black and Jacob L. Black is annexed hereto as Exhibit "A."

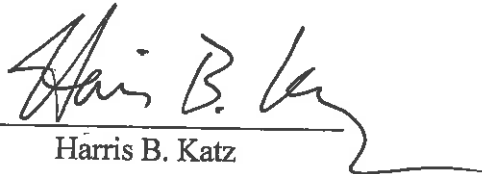
4. A true and correct copy of the Appellate Court of Illinois, First District, First Division's October 31, 2011, Unpublished Decision in *Vasilejevich v. Levit*, 2011 Ill. App. Unpub. LEXIS 2679 (First District, First Div., 2011) is annexed hereto as Exhibit "B."

5. A true and correct copy of the United States Court of Appeals for the Second Circuit's April 14, 2016, Unpublished Decision in *Fernandez v. Turetsky*, 2016 U.S. App. LEXIS 6731 (2nd Cir. 2016) is annexed hereto as Exhibit "C."

6. A true and correct copy of the United States Court of Appeals for the Second Circuit's April 14, 2016, Unpublished Decision in *Mercer v. Bank of New York Mellon, N.A.*, 2016 U.S. App. LEXIS 56995 (2nd Cir. 2015) is annexed hereto as Exhibit "D."

WHEREFORE, Defendant respectfully requests that the instant motion to dismiss be granted in its entirety, and that the Amended Complaint thereby be dismissed in its entirety with prejudice, together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
July 25, 2016


Harris B. Katz